IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12087 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHRIJI TRADING CO

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12087 of 2001

MR RN SHAH for Petitioner No. 1

MR KP RAVAL, AGP, for Respondents No. 1-2

..... for Respondent No. 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 11/01/2002

ORAL JUDGEMENT

Rule. Mr KP Raval waives service of Rule for respondents. At the request of the learned counsel for the parties, the petition is taken up for final disposal

since it is submitted that the subject matter of the petition is covered by the decision dated 1-8-2001 of a Division Bench of this Court in LPA No.538 of 2001, a copy of which is annexed at Annexure C to the petition.

2. The petitioner was possessing licence as a wholesale dealer of Kerosene since 1981 under the provisions of the Gujarat Essential Commodities Order, 1981. The validity period of the licence was to last expire on 31-12-2001. Thereafter, the petitioner applied for renewal of the said licence from 1-1-2002 to 31-12-2006. The renewal application was not being considered in view of certain instructions from the State Government not to renew such licences if the dealers were not appointed as agents by the oil companies. The said instructions were contained in Government circulars dated 30-7-1988, 4-10-1990, 3-4-1995, 6-1-1997, 29-8-1997, 22-1-1999, 5-2-2001 and 19-6-2001. The said circulars came to be challenged in a group of petitions which were dismissed. The decision of the learned single Judge dismissing the petitions was carried in appeal being LPA No.538 of 2001 and cognate appeals and applications which came to be decided by the judgment dated 1-8-2001 of a Division Bench of this Court. The learned Chief Justice of this Court speaking for the Bench allowed the appeals and set aside the impugned order of the learned single Judge. The Division Bench quashed, by a writ of certiorari, all the impugned circulars dated 30-7-1988, 4-10-1990, 3-4-1995, 6-1-1997, 29-8-1997, 22-1-1999, 5-2-2001 and 19-6-2001 of the Government of Gujarat not to renew licences of the wholesale dealers in kerosene who are not agents of the oil companies.

3. The learned AGP is not in a position to dispute that the subject matter of the present petition is covered by the aforesaid judgment of the Division Bench.

4. In this view of the matter, the petition is allowed. The respondents are directed to consider the petitioner's application for renewal of licence as a wholesale dealer of kerosene in accordance with law and on the basis of the aforesaid decision dated 1-8-2001 of a Division Bench of this Court in LPA No.538 of 2001 and cognate matters.

5. Rule is made absolute to the aforesaid extent with no order as to costs.

Direct service is permitted.

(M.S. Shah,J)

zgs/-